

**ARKANSAS COURT OF APPEALS  
NOT DESIGNATED FOR PUBLICATION  
JOHN MAUZY PITTMAN, CHIEF JUDGE**

**DIVISION IV**

CACR05-1132

September 20, 2006

SEDRIC ANDERSON  
APPELLANT

APPEAL FROM THE CRAIGHEAD  
COUNTY CIRCUIT COURT, WESTERN  
DISTRICT [NO. CR 04-757]

V.

HON. JOHN N. FOGLEMAN,  
JUDGE

STATE OF ARKANSAS  
APPELLEE

REMANDED TO SUPPLEMENT THE  
RECORD

The appellant in this criminal case was tried by a jury and convicted of manufacture of methamphetamine, possession of drug paraphernalia with intent to manufacture methamphetamine, possession of pseudoephedrine with intent to manufacture methamphetamine, and possession of anhydrous ammonia in an unlawful container. On appeal, he argues that the trial court erred in denying his pretrial motion to suppress his recorded statement; that the trial court erred in denying his motion to suppress evidence because assertedly exculpatory evidence was destroyed by the police; and that the evidence is insufficient to support his conviction for manufacturing methamphetamine. We remand

for the record to be supplemented and for the additional material to be included in a substituted abstract.

Appellant's first point hinges on the content of an audio recording, played at trial but not transcribed, made by a police officer of statements made by appellant before and after his arrest. This recording is vital to our determination of the issues presented. It was played at the suppression hearing and at trial, where the digital disc on which it was stored was marked as an exhibit. The digital files on the disc attached to the record, however, contain only a video recording of the search. Although there is a digital folder for the audio recording, that folder is empty.

Here, appellant designated the entire record as the record on appeal. After his attorney was unable after numerous attempts to secure the transcript of the record from the court reporter, he sought and obtained a writ of certiorari from the supreme court commanding the court reporter to certify a full and correct transcript of the proceedings.

A record can be supplemented if something material is omitted or misstated by accident or mistake. *See* Ark. R. App. P. – Civ. 6(e) (made applicable to criminal cases by Ark. R. App. P. – Crim. 4(a)); Ark. Sup. Ct. R. 3-5(a). Because it appears that the omission was accidental in this case, we order the court reporter to locate the audio recording of appellant's statements and for the record to be supplemented to correct the omission. If the audio recording sought cannot be located, the trial court is directed to conduct a hearing to attempt to settle the record on this issue. Appellant's counsel should include all material

parts of the audio recording in a substituted abstract, brief, and addendum. *See* Ark. Sup. Ct. R. 4-2(a)(5). The trial court, court reporter, and counsel are directed to accomplish these matters within thirty days. *Akins v. State*, 328 Ark. 676, 945 S.W.2d 362 (1997). Should appellant file a substituted abstract, brief, and addendum, the State will have fifteen days to revise its brief should it so choose.

Remanded to supplement the record.

GLADWIN and GLOVER, JJ., agree.